IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/01/2004

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.6349 of 1997

M.Pandurangan .. Petitioner

-Vs-

1. The Government of Tamil Nadu
rep. by its Secretary
Food, Cooperation & Consumer
Protection Department
Fort St. George, Chennai-9.

2. The Joint Commissioner of
Civil Supplies & Consumer
Protection, Chepauk
Chennai-5.

3. The District Supply Officer
Trichy. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India
praying to issue a writ of Certiorarified Mandamus as stated within.

For Petitioner : Mr.D.Peter Francis

For Respondents: Mr.M.S.Palanisamy
Addl. Govt. Pleader

:ORDER

By proceedings dated 24.9.1993 of the second respondent, the license granted to the petitioner for retail trade of kerosene under the provisions of the Tamil Nadu Kerosene (Regulation of Trade) Order, 1973 was cancelled on the ground that the petitioner was not exclusively dealing with kerosene trade for his livelihood, as he was also running a sweetmeat business. On revision, the first respondent, by proceedings dated 19.11.1996, confirmed the order of the second respondent dated 24.9.1993. Hence, the above writ petition for issue of a writ of Certiorarified Mandamus to call for the entire records culminating in the passing of the impugned letter No.62903(A)/F2/93-11, dated 19 .11.1996, on the file of the first respondent herein, quash the same as illegal and consequently direct the respondents herein to hold the petitioner

as a retail trader in kerosene within the meaning of the provisions of the Tamilnadu Kerosene (Regulation of Trade) Order, 197 3, and a Government Lr.No.202, Food & Cooperation Department, dated 23.3.1982.

2. Mr.D.Peter Francis, learned counsel for the petitioner challenges the cancellation of license granted to the petitioner for retail trade in kerosene on the following grounds:
(i) the impugned order of cancellation of license was passed without giving an opportunity to the petitioner to establish that he is exclusively dealing in the retail trade of kerosene for his livelihood;
(ii) the finding of the second respondent that the petitioner was running a sweetmeat shop is erroneous and incorrect as the same is not supported with any materials.

3.1. Per contra, Mr.M.S.Palanisamy, learned Additional Government Pleader contends that since the intention of the Government is to grant retail trade license in Kerosene to the really deserving persons, who are below the poverty line and wholly depending upon such license for their livelihood, the cancellation of retail license granted to the petitioner on the ground that the petitioner is not exclusively dealing in kerosene for his livelihood is fully justified.

3.2. Mr.M.S.Palanisamy, learned Additional Government Pleader, further submits that once it is brought to the notice of the respondents that the petitioner is not exclusively dealing in the retail trade in kerosene for his livelihood, the respondents are empowered to take appropriate action for cancellation of license.

4. I have given careful consideration to the submissions of both sides.

5. The owed object of the Government to grant retail license to trade in kerosene only to those persons who are totally depending upon the retail trade of selling kerosene, so that they will be having a definite source of income for their livelihood and consequently, to not grant retail license to persons who are not depending exclusively on retail trade of kerosene, in my considered opinion, is fully justified. However, such a conclusion that the petitioner is solely depending upon the retail trade in kerosene or has some other source of income for his livelihood has to be arrived at not by discreet enquiry but, by giving a fair and reasonable opportunity to the licensee, in compliance of the principles of natural justice.

6. In the instant case, since a fair and reasonable opportunity was not given to the petitioner before cancelling his retail license to trade in kerosene, I am inclined to allow this writ petition and quash the impugned order dated 19.11.1996 passed by the first respondent. The licensing authority is directed to renew the license of the petitioner within thirty days from the date of receipt of copy of this order. If the respondents feel that the petitioner is still having other source of income, they are at

liberty to proceed in accordance with law, but only after giving a fair and reasonable opportunity to the petitioner. No costs.

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To:

1. The Government of Tamil Nadu
rep. by its Secretary
Food, Cooperation & Consumer
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Fort St. George, Chennai-9.

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Civil Supplies & Consumer
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